

Appendix II

REPORT GIVEN BEFORE
THE ACADEMY OF MORAL AND POLITICAL SCIENCES
ON JANUARY 15, 1848,
ON THE SUBJECT OF M. CHERBULIEZ' BOOK ENTITLED
ON DEMOCRACY IN SWITZERLAND¹

Gentlemen,

M. Cherbuliez, professor of public law at the Academy of Geneva, has published a book about the institutions and political mores of his country, entitled *On Democracy in Switzerland*, and he has presented a copy of this book to the Academy of Moral Sciences.

I feel, gentlemen, that the importance of the subject dealt with by the author makes a detailed examination of his work worthwhile. So, thinking that such an examination might prove of some use, I have undertaken it.

I mean completely to disregard the preoccupations of the moment, as is appropriate in this place, and to pass over in silence the events taking place, which do not concern us. I do not want to study the behavior of political society in Switzerland, but rather to study that society itself, the laws which shape it, and their origin, tendencies, and character. I hope that within these set limits my sketch will have some interest. What is happening in Switzerland is no isolated event, but a particular instance of a general movement which is driving to destruction all the ancient structure of European institutions. The stage may be small, but there is greatness in the play, and it has, moreover, some peculiarly original features. Nowhere else has the democratic revolution which is shaking the world taken place in such strange and complicated circumstances. We have one people, composed of several races, speaking several languages, with several religious beliefs, various dissident sects, two churches both equally established and privileged, all political

¹[The French title of the work on which Tocqueville reports is: *De La Démocratie en Suisse*, 2 vols., Paris, 1843.]

questions quickly turning into religious ones, and all religious questions ending up as political ones, and finally two societies, one very old and the other very young, joined in marriage in spite of the difference of age. That is a fair sketch of Switzerland. To paint it properly the author should, in my view, have chosen a higher vantage point. In his preface M. Cherbuliez says, and I believe him to be sincere in this, that he has tried to be impartial. He is even afraid that the completely impartial quality of his work may make it a little dull. That fear is certainly unjustified. The author does indeed want to be impartial, but he does not succeed in that. In his book there is knowledge, perspicacity, real talent, and a manifest good faith which breaks through even where he feels most passionately. But impartiality is just what is lacking. The author is very intelligent but not broadminded.

To what forms of political society does the author incline? At first that seems hard to say. Although he to some extent approves the conduct of the most zealous Catholics, he is so decidedly opposed to Catholicism that he almost favors legislative impediments to prevent the spread of Catholicism to places where it is not predominant. On the other hand, he is very much against the dissident Protestant sects. He is opposed to both government by the people and government by the nobility. In religion, a Protestant church controlled by the state; in politics, a state ruled by a bourgeois aristocracy—that would seem to be the author's ideal. It is Geneva before the latest revolution.

But though it is not always easy to see what he likes, it is clear what he detests. What he detests is democracy. The democratic revolution which he describes was a blow to his opinions, to his friendships, perhaps to his interests, and he always speaks of it with hostility. He does not only attack democracy because of one or another of its results, but for its basic principles; he does not see its good qualities, and tracks down its defects. Of the ills that may result therefrom, he does not distinguish between what is fundamental and permanent and what is accidental and passing, what parts thereof must be tolerated as inevitable and what one should seek to remedy. But perhaps it is impossible for such a man as M. Cherbuliez, who has been so much involved in the disturbances of his country, to envisage the subject in such a way. Nevertheless, one regrets that. As we continue this analysis it will become clear that Swiss democracy badly needs someone to point out the imperfections of its laws. But to do that effectively, the first requirement was not to hate it.

M. Cherbuliez has called his book *On Democracy in Switzerland*, which might give the impression that the author thinks Switzerland can provide the basis for a book treating of the theory of democracy and that that country offers an opportunity to judge democratic institutions in themselves. That is the origin, in my view, of almost all the mistakes in the book. The title should have been *On the Democratic Revolution in Switzerland*. Switzerland has in fact for fifteen years been a country in a state of revolution. Democracy there is less a regular form of government than a weapon habitually used to destroy, and sometimes to defend, the old society. One can well study there the particular phenomena which go with a state of revolution, but one

cannot take it as the basis for a description of democracy in its permanent and peaceful established state. Anyone who does not keep this point of departure constantly in mind will hardly understand the kaleidoscope of Swiss institutions. For my part, I should find it impossibly difficult to explain what now exists without saying how I understand what went before.

One has generally a false impression of the state of Switzerland at the time when the French Revolution broke out. As the Swiss had long been living in a republic, one is easily led to imagine that they came much closer than the other European peoples to the institutions which embody and the spirit which animates modern freedom. But the opposite is the truth.

Although Swiss independence was born amid a rebellion against the aristocracy, most of the governments then founded soon borrowed from the aristocracy most of their habits and laws, and even their opinions and inclinations. They never conceived of liberty as anything but a privilege, and the idea of a general pre-existent right of all men to be free was something as foreign to their understanding as it can ever have been to the princes of the house of Austria, whom they had vanquished. Hence all powers were soon brought into and kept in the hands of small aristocracies, which were either closed or self-recruiting. In the north these aristocracies took on an industrial character, and in the south they had a military constitution. But in both cases they were equally restricted and exclusive. In most of the cantons three quarters of the population were excluded from any participation, whether direct or even indirect, in the administration of the country. Moreover, each canton had subject populations.

These little societies, which had been established in the midst of such great upheavals, soon became so stable that no further movement was felt within them. The aristocracy, neither pressed by the people nor guided by a king, kept the social body immobile and dressed in the old garments of the Middle Ages.

The passage of time had long since allowed the new spirit to penetrate even the most monarchical societies of Europe, while Switzerland still remained closed to it.

The principle of the division of powers was approved by all writers, but in Switzerland it did not apply. Freedom of the press, which, in fact at least, existed in several absolute monarchies on the Continent, existed neither in fact nor in law in Switzerland; the right of political association was neither exercised nor recognized; freedom of speech was restricted within very narrow limits. Equal taxation, to which all enlightened governments were tending, was there as unknown as equality before the law. Industry there was hampered in a thousand ways, and there was no legal guarantee of individual liberty. Freedom of religion, which was beginning to penetrate even the most orthodox states, had still made no appearance in Switzerland. Dissident sects were entirely prohibited in several cantons, and discouraged in all. Differences in belief there almost everywhere resulted in political disabilities.

Switzerland was still in this condition in 1798, when the French Revolution broke into its territory by force of arms. For the moment it overthrew the

ancient institutions, but it put nothing solid or stable in their place. Napoleon, who some years later saved Switzerland from anarchy by the Act of Mediation, granted equality but not liberty, the political laws that he imposed were so framed that political life was paralyzed. Power exercised in the name of the people, but put well out of its reach, was all placed in the hands of the executive authorities.

When, a few years afterward, the Act of Mediation shared its author's fall, the Swiss did not gain liberty by this change, but only lost equality. On all sides the old aristocracies again took up the reins of government and again put into operation the exclusive and outdated principles that had prevailed before the revolution. Matters then returned, as M. Cherbuliez correctly states, to the condition they were in before 1798. The allied kings are wrongly accused of having imposed the restoration by force on Switzerland. It was done in agreement with them, but not by them. The truth is that the Swiss, in common with other peoples on the Continent, were carried away by that passing but universal reaction which suddenly revived the old society throughout Europe. Since, in their case, the restoration was not brought about by the princes whose interests after all are different from those of the former privileged classes, but by that class itself, it was more complete, blind, and obstinate than in the rest of Europe. It did not prove itself tyrannical, but very exclusive. Legislative power was entirely subordinated to the executive, and the latter was exclusively in the hands of the aristocracy of birth; the middle class was excluded from the administration; the whole of the people were deprived of political life; such was the state of almost every part of Switzerland down to 1830.

It was then that the age of democracy opened for her!

The object of this short exposition is to make two things clear:

First: that Switzerland is one of the countries of Europe in which the revolution went least deep, and the following restoration was most complete. So that, since institutions foreign or hostile to the new spirit had there preserved or regained much of their sway, the impulse toward revolution was bound to be more powerful there.

Second: that in the greater part of Switzerland up to our day the people had never taken the smallest part in the government, so that judicial provisions guaranteeing civil liberty, freedom of association, freedom of speech, freedom of the press, and religious liberty had always been as much, I might almost say more, unknown to the great majority of the citizens of these republics than they can ever have been, at the same time, to the subjects of most of the monarchies.

That is something of which M. Cherbuliez often loses sight, but which we should always bear in mind in the careful examination which we are going to make of the institutions with which Switzerland has provided herself.

Everyone knows that in Switzerland sovereignty is divided into two parts; there is the federal power on one side and the power of the cantonal governments on the other.

M. Cherbuliez begins by speaking of what takes place in the cantons, and

he is right to do so, for in them the real government of society resides. I will follow his example and discuss the constitutions of the cantons.

All the constitutions of the cantons are now democratic, but democracy does not show the same aspect in all.

In most of the cantons the people have handed over the exercise of their powers to assemblies which represent them, but in a few they kept it for themselves. The people come together as a body and govern. M. Cherbuliez calls the former *representative democracies* and the latter *pure democracies*.

I will ask the academy's permission not to follow him in his very interesting examination of the pure democracies. I have several reasons for that. Although the cantons living under a pure democracy played a great role in history and may still have a considerable part to play in politics, to study them satisfies a taste for oddity rather than any useful end.

Pure democracy is something almost unique in the modern world, and even in Switzerland very exceptional, for only one thirteenth part of the population is governed in that way. It is, moreover, a passing phase. It is not sufficiently realized that, even in those Swiss cantons where the people have most preserved the exercise of their power, there does exist a representative body entrusted with some of the cares of government. Now, it is easy to see, when studying recent Swiss history, that gradually those matters with which the people concern themselves are becoming fewer, whereas those with which their representatives deal are daily becoming both more numerous and more various. Thus the principle of pure democracy is losing ground gained by the opposing principle. The former is insensibly becoming the exception and the latter the rule.

Moreover, the pure democracies of Switzerland belong to another age; they can teach us nothing useful for the present or the future. Although we are obliged to use, in describing them, a name devised by modern learning, they live only in the past. Each century has its dominating spirit which nothing can resist. If any principles foreign or contrary to it are introduced within its domain, it is not slow to penetrate into them, and when it cannot abolish them, it adapts or assimilates them. In the end the Middle Ages came to give an aristocratic shape even to democratic freedom. In the midst of the most republican laws, side by side even with universal suffrage, the Middle Ages introduced religious beliefs, opinions, feelings, habits, associations, and families who, removed from the people, retained the real power. One can only regard the little governments of the Swiss cantons as the last venerable ruins of a vanished world.

But the representative democracies of Switzerland are the offspring of the modern spirit. They are founded on the ruins of a former aristocratic society; all are based on the sole principle of the sovereignty of the people; all have applied this principle in almost the same way in their laws.

As we shall see, these laws are very imperfect, and they would by themselves serve to show, without the testimony of history, that in Switzerland democracy and even liberty are new forces lacking in experience.

We must first note that, even in the representative democracies of Switzerland, the people have retained in their own hands the direct exercise of part

of their power. In some cantons, when the chief laws have been approved by the legislature, they must still be submitted to the veto of the people. So that, as far as those particular cases are concerned, representative democracy has been turned back into pure democracy.

In almost all, the people must be consulted, usually at frequent intervals, as to whether they want to modify or to maintain the Constitution. That, at intervals, undermines all the laws at once.

All the legislative powers which the people have not retained in their own hands have been confided to a single assembly, which conducts its business in their sight and in their name. In no canton is the legislature divided into two branches, but is everywhere composed of one body; not only are its impulses not delayed by the need to come to an understanding with another assembly, but its desires do not even have to face the obstacle of prolonged deliberation. The discussion of general laws is subject to certain delaying formalities, but the most important resolutions can be proposed, discussed, and approved in a minute under the name of decrees. These decrees turn secondary laws into something as unforeseen, hasty, and irresistible as the passions of a crowd.

Outside the legislature there is nothing able to resist. The separation, and above all the relative independence, of the legislative, administrative, and judicial powers does not, in fact, exist.

In no canton are the holders of executive power directly elected by the people; it is the legislature which chooses them. Hence the executive power is endowed with no power properly its own. It is only the creation of another power, whose servile agent it is bound to be. That is one cause of weakness, but there are several others. Nowhere is executive power entrusted to a single man. It is confided to a small assembly, where responsibility is divided and action debilitated. Moreover, several rights essential to executive power are refused to it. It has either no veto or only an ineffectual one over the laws. It is deprived of any prerogative of mercy; it neither appoints nor dismisses its agents. One might even say that it has no agents, for it is usually obliged to make use of the municipal magistrates only.

But the chief defect in the laws of Swiss democracy lies in the bad Constitution and bad composition of the judicial power. M. Cherbuliez notices it but does not, in my view, stress it enough. He does not seem thoroughly to understand that in democracies it is above all the judicial power which must be both the protector from, and the protector of, the people.

The idea of judicial independence is a modern one. The Middle Ages missed conceiving it, or at least conceived it in only a very muddled way. One may say that in all European nations executive and judicial powers were intermingled in the beginning. Even in France, where by exceptional good fortune the judiciary developed a very vigorous individual existence, one can yet say that the division between the two powers remained far from complete. It is true that it was not the administration which kept justice in its hands, but the judiciary which took control of part of the administration. In Switzerland, on the other hand, perhaps more than in any other European

country, justice was most completely confounded with political power and became most completely one of its attributes. One can say that our idea of justice as an impartial and free power which interposes between all interests and all other powers to call them all back to respect for the law is an idea which in the past has never entered the heads of the Swiss and which even today is very incompletely understood there.

The new constitutions have certainly given the tribunals more of a separate position than that which they had among the former powers, but it is not a more independent position. The inferior tribunals are elected by the people and subject to re-election; the supreme tribunal of each canton is chosen, not by the executive power, but by the legislature, and its members have no guarantee against the daily caprices of the majority.

Not only do the people, or the assembly which represents them, choose the judges, but they impose no restraints on their choice. In general, no professional qualifications are demanded. Moreover, the judge, whose duty is simply to enforce the law, has not the right to question whether the law conforms to the Constitution. In very truth it is the majority itself which judges, using the magistrates as its agents.

Besides this, even if the law had given the judiciary in Switzerland the independence and rights which are necessary for it, the judges would have found it difficult to play their part, for the power of justice is based on tradition and opinion, which need the support of judicial conceptions and mores.

It would be easy to stress the defects of the institutions I have just been describing and to show that they tend to make the people's government irregular in its action, hasty in its decisions, and tyrannical in its acts. But that would be too much of a digression. I will limit myself to comparing these laws to those of a more ancient, tranquil, and prosperous democratic society. M. Cherbuliez thinks that the imperfect institutions of the Swiss cantons are the only ones which democracy can prompt or even tolerate. My comparison will prove the contrary and show how, starting from the principle of the sovereignty of the people, elsewhere, with more experience, skill, and wisdom, it has been possible to derive different results. I take as example the state of New York, which contains as many inhabitants as the whole of Switzerland.

In the state of New York, as in the Swiss cantons, sovereignty of the people is the accepted principle of government, and it is universal suffrage which sets it in motion. But the people exercise their rights of sovereignty not one day only, when they choose their representatives. In general, in no case do the people retain in their own hands any part of the legislative, executive, or judicial power. They choose those who are to govern in their name, and until the next election, they abdicate.

Although the laws are changeable, their foundation is stable. The Swiss system, by which the Constitution is known to be subject to successive periodic revisions, so that each revision, or the mere anticipation thereof, keeps the organization of society in suspense, is a system which has never come into a New Yorker's head. In New York when some new need is felt, the legislature

decides that a modification of the constitution has become necessary, and the ensuing legislature puts it into operation.

No more than in Switzerland can the legislature escape the pressure of public opinion, but it is organized in a way to resist its caprices. No proposal can become law until it has been considered by two assemblies. These two branches of the legislature are elected in the same way and composed of the same elements, so both originate in the people, but they do not represent it in exactly the same way: the function of the one is especially to reflect the impressions of the moment, whereas the other is concerned with habitual instincts and permanent inclinations.

In New York the division of powers exists not only in appearance, but in fact.

Executive power is exercised not by a body but by one man with full responsibility, who uses all his rights and prerogatives firmly and decisively. He is elected by the people but is not, as in Switzerland, the creature or agent of the legislature; he acts as its equal, being, like the legislature, the representative of the sovereign people, but in a different sphere. Both derive their power from the same source. He is not in name only the executive power, but actually exercises the natural and legitimate power thereof. He commands the armed forces and appoints their chief officers; he selects several of the most important officials in the state; he can grant pardons; his veto over the wishes of the legislature, though not absolute, is nonetheless effective. The governor of the state of New York is doubtless much less powerful than a European constitutional king, but he is certainly much stronger than a little Swiss council.

But the most striking difference is in the organization of judicial power. The judge, though he emanates from the people and depends thereon, is a power to which the people themselves submit. This exceptional status of judicial power derives from its origin, permanence, professional competence, and above all, public opinion and mores.

The judges of the higher courts are not chosen, as in Switzerland, by the legislature, which is a collective power, often subject to passions, sometimes blind, and always irresponsible, but by the governor of the state. Once appointed, a judge is regarded as irremovable. No suit falls outside his jurisdiction, and no punishment can be imposed by anyone else. He not only interprets the law, but may be said to judge it; when the legislature, with its hasty moves of political parties, transgresses the spirit or letter of the Constitution, the courts bring it back to legality by refusing to enforce its decisions; in this way, though the judges cannot oblige the people to maintain the Constitution, they can at least make them respect it in its existing form. The judges do not direct the people, but do restrain and keep them within limits. The power of the judges, which hardly exists in Switzerland, is the real moderator of American democracy.

Nowadays, when one comes to examine that Constitution in its smallest details, one finds no trace of aristocracy. There is nothing which resembles a class, no privileges, the same rights everywhere, all powers deriving from the people and returning thereto, the same spirit animating all institutions,

with no contradictory tendencies; the principle of democracy has penetrated everywhere and dominates everything. And yet these governments, so completely democratic, have a far greater stability, a much more peaceable aspect, and much more regular ways of conducting business than the democratic governments of Switzerland. One can safely say that this is partly due to different laws.

The laws of New York State, which I have just described, are framed in a way to combat the natural defects of democracy. But the Swiss institutions, which I have depicted, would seem to have been devised to make them worse. In New York they hold the people back, but in Switzerland they urge them on. The Americans fear that the people's power may turn into tyranny, but in Switzerland the only thought would seem to be how to make it irresistible.

I do not exaggerate the influence of legal mechanisms on the fate of peoples. I know that the great events in this world are chiefly due to deeper and more general causes. But one must appreciate that institutions have a certain virtue of their own and that they do contribute to the prosperity or wretchedness of societies.

If, instead of absolutely dismissing almost all his country's laws, M. Cherbuliez had pointed out their weak points and shown how they could be improved in detail without alteration of principle, he would have written a book of more lasting value and one more useful to his contemporaries.

Having shown how democracy works in the cantons, the author traces its influence over the Confederation as a whole.

Before following M. Cherbuliez in this, we must do something which he has neglected, that is to say, make it quite clear what the federal government is, how it is organized in theory and in practice, and how it works.

It is reasonable first to ask whether the lawgivers of the Swiss Confederation wished to establish a federal constitution or merely a league, in other words, whether they intended to sacrifice part of the sovereignty of the cantons in order to place it elsewhere or whether they did not mean to take any of it away. Considering that the cantons renounced several rights inherent in sovereignty and handed them over in permanent fashion to the federal government, and considering that, in questions entrusted to the federal government, the majority was to make the law, one cannot doubt but that the lawgivers of the Swiss Confederation intended to establish a true federal constitution and not simply a league. But one must admit that they set about this task very clumsily.

The Swiss federal Constitution strikes me as the most imperfect of all the constitutions of this kind yet seen in the world. Reading it, one might suppose oneself back in the Middle Ages, and it seems almost incredible that such a confused and incomplete work is the product of the learning and experience of our own century.²

² One must not forget that all this was written in 1847, that is to say, before the after-effects of the Revolution of 1848 had led to the reform of the former federal pact.

It is often and rightly said that the pact limited the powers of the Confederation unreasonably and that it left outside the sphere of the government representing it some essentially national questions which should, in the nature of things, have come within the competence of the Diet, such, for example, as the postal service, control of weights and measures, and coinage. . . . And the weakness of the federal power is thought to be due to the few matters entrusted to it.

It is perfectly true that the pact withheld from the government of the Confederation several rights which are naturally, even necessarily, its province. But that is not the true cause of its weakness, for the powers that it was given by the pact would have been enough if it could have used them to enable it soon to gain all those it lacked.

The Diet can raise troops, impose taxes, make war and conclude peace, negotiate commercial treaties, and appoint ambassadors. The constitutions of the cantons and the basic principles of equality before the law were placed under its protection, and that would, at need, have justified interference in all local affairs. Tolls and rights over the roads, etc., are controlled by the Diet, which gives it authority to direct and manage great public works. Finally, the Diet, according to Article IV of the pact, "takes all measures necessary for the internal and external security of Switzerland," and that gives it license to do everything.

The strongest federal governments have not had greater prerogatives, and far from thinking that the competence of the central power in Switzerland is too limited, I am led to feel that its limits have not been sufficiently carefully defined.

Whence, then, comes it about that the government of the federation, having such fine privileges, has in general so little power? The reason is simple: it has not been given the means of doing those things which it is allowed to desire. Never has a government been better kept in apathy and condemned to impotence by the imperfection of its organs.

It is of the essence of federal governments to act, not in the name of the people, but in that of the states composing the Confederation. Were things otherwise, the Constitution would no longer be a federal one.

Among other necessary and inevitable consequences of this, it results that federal governments are usually less bold in their decisions and slower in their movements than others.

Most of the legislators of confederations have striven, by means of more or less ingenious devices, which I need not go into here, partly to correct this natural defect of the federal system. But the Swiss have made this defect much more noticeable than it is elsewhere, owing to the particular forms which they have adopted. In their case, not only do members of the Diet act only in the names of the various cantons which they represent, but they generally cannot take any decision which has not been previously considered and approved by them. Hardly anything is left to their free initiative; each one of them thinks that he is subject to a binding mandate, imposed beforehand. As a result, the Diet is no more than a deliberating assembly where, to tell the truth, there is nothing to deliberate about and where one speaks

not before those who must make the decision but before those who only have the right to carry it out. The Diet is a government which counts for nothing on its own but which is limited to giving effect to what has been decided by twenty-two other governments separately, a government which, whatever may be happening, can decide nothing and exercise no foresight or provision. One could not imagine any arrangement better suited to increase the natural inertia of the federal government and to turn this weakness into a sort of senile debility.

There are also many other reasons which, apart from the vices inherent in all federal constitutions, explain the habitual impotence of the government of the Swiss Confederation.

Not only has the Confederation got a weak government, but one might say that it has no government of its very own. Its Constitution in this respect is unique in the world. The Confederation puts at its head leaders who do not represent it. The directorate which forms the executive power in Switzerland is chosen not by the Diet, and still less by the people of Switzerland; it is a chance government which the Confederation borrows every two years from Berne, Zurich, or Lucerne. This authority, elected by the inhabitants of a canton to manage a canton's affairs, thus incidentally becomes the head and arm of the whole country. That may certainly count as one of the great political curiosities in the record of human laws. The effects of such a state of things are always deplorable and often very odd. Nothing could be more ridiculous than that which happened, for instance, in 1839. In that year the Diet was held at Zurich, and the Confederation had the directorate of the state of Zurich as its government. A popular insurrection overthrew the established authorities. The Diet immediately found that it had no president, and the life of the federation remained in suspense until the canton was ready to make itself new laws and appoint new leaders. The people of Zurich, by changing their local administration, had unintentionally decapitated Switzerland.

Even if the Confederation had an executive power of its own, the government would still be unable to make itself obeyed if it could not act directly and immediately on the citizens. That in itself is a greater cause of weakness than all the others put together; but to make that properly understood, one must do more than just mention it.

A federal government may have a pretty limited field of action and yet be strong if in its narrow sphere it can act without intermediaries, as ordinary governments do in the unlimited scope of their activities; if it has officials who are in direct contact with each citizen, and tribunals which force each citizen to obey its laws, it can easily exact obedience, because it has nothing but individual resistance to face, and all obstacles put in its way can be dealt with by process of law.

On the other hand, a federal government may have a vast sphere of activity and yet have very weak and precarious authority if, instead of direct contact with the individual citizen, it has to turn to the governments of the cantons, for if the latter resist, the federal government at once finds itself faced not

with a subject but with a rival who cannot be brought to reason except by war.

The power, therefore, of a federal government depends much less on the extent of the rights conferred on it than on the greater or lesser opportunity it is given to exercise them itself; it is always strong when it can give the citizens orders; it is always weak when it is reduced to giving its orders to the local governments.

The history of confederations gives examples of these two systems. But I know of no confederation in which the central government is as completely deprived of all action on the citizens as is that of Switzerland. There is, one may say, no single right of the federal government which it is able to exercise on its own account. There are no officials dependent on it alone and no law courts which represent its sovereignty exclusively. It would seem to be a being to whom life has been given but who has been deprived of all the organs of life.

Such is the federal Constitution as established by the pact. Now let us briefly follow the author of this book in seeing what influence democracy has on it.

One cannot deny that the democratic revolutions which have changed almost all the constitutions of the cantons in turn during the last fifteen years have had a great influence on the federal government; but this influence has been exercised in two very contrary ways. It is very necessary to take both sides of this phenomenon into account.

The democratic revolutions in the cantons have resulted in greater local activity with more power. The new governments created by the revolutions, relying on the people and urged on by them, have felt themselves both actually stronger and with a higher idea of their power than the governments which they supplanted. Since no similar renewal took place at the same time in the federal government, the natural, and in fact the actual, result was that the latter became weaker in comparison with the former than had previously been the case. Cantonal pride, the instinct of local independence, impatience of all control in the internal affairs of each canton, and jealousy of any supreme central authority—all these are feelings which have increased with the coming of democracy; from that point of view one can say that it has weakened the already feeble government of the Confederation and made the daily performance of its habitual work harder and more difficult.

But in other respects it has given it an energy, one might almost say an existence, which it never had before.

The establishment of democratic institutions in Switzerland has introduced two entirely new things.

Up to now each canton had its separate interests and separate spirit. The coming of democracy has divided all the Swiss, to whatever cantons they belong, into two parties, the one supporting democratic principles and the other opposed to them. It has created common interests and common passions which cannot be satisfied without some general common power operating at the same time continuously over the whole country. Thus for the first time the federal government has come to have a powerful force, some-

thing which it had always lacked before; it has been able to rely on the support of a party; that is a dangerous force, but one indispensable in free countries where the government can hardly do anything without it.

At the same time that democracy divided Switzerland into two parties, it made Switzerland join one of the two parties that are dividing the world between them; it has brought the need for a foreign policy; it has provided both natural friends and inevitable hostility; to cultivate and keep her friends and to watch and guard against her enemies, Switzerland has felt an irresistible need for a government. Local patriotism has been replaced by national.

Those are the direct ways in which democracy has fortified the federal government. The indirect influence which it exercises, and more especially, which it will exercise in the long run, is equally important.

The more different the population is in institutions, feelings, customs, and ideas, the greater will be the resistance to a federal government and the more numerous and harder to solve will be its difficulties. Similar interests play less part in making the United States so easily governed than do the perfect similarity of laws, opinions, and social conditions. By the same token, one can say that the strange weakness of the former Swiss federal government was chiefly due to the immense difference and strange contradiction between the spirit, outlook, and laws of the various populations over which it had to rule. It was a very laborious task to keep men so naturally dissimilar and remote from one another under a uniform control and within the same political system. A much better-constituted government, and one with a wiser organization, would not have succeeded in this. The democratic revolution now taking place in Switzerland has the effect in each canton in turn of establishing the sway of certain institutions, maxims of government, and ideas of similar tendency; while the democratic revolution strengthens the spirit of independence in the cantons in face of the central government, on the other hand it makes it easier for that government to act; to a great extent it abolishes the causes of resistance, and without making the cantonal governments more anxious to obey that of the federation, it makes obedience to its wishes infinitely easier for them.

To understand the present and foresee the future of the country, it is necessary to study very carefully the two contrary effects which I have described.

If one pays attention to only one of these tendencies, one is led to believe that the coming of democracy in the cantonal governments will lead immediately and easily to legislation extending the sphere of the federal government and the concentration in its hands of the normal direction of local affairs; in a word, to modify the whole organization of the pact in the direction of centralization. I am convinced, for my part, that such a revolutionary change would still for a long time encounter much greater resistance than is generally supposed. The cantonal governments of today show no greater taste than their predecessors for such a revolutionary change, and will do all they can to avoid it.

But I nevertheless think that in the end the federal government is destined

to increase its power. Circumstances will help this on more than laws. Maybe it will not in any very manifest way increase its prerogatives, but it will use them differently and more often. It will in fact grow in strength, even if in law it remains the same; it will develop more by interpreting the pact than by changing it; and it will dominate Switzerland before it is in a position to govern her.

One can also foresee that those very people who, till now, are most opposed to the methodical extension of its power will not be slow to wish for it, either to escape from the intermittent pressure of such an ill-constituted power or to seek protection from the nearer and heavier tyranny of the local governments.

The one certain fact is that henceforth, whatever may be the modifications to the letter of the pact, the Swiss federal Constitution has been profoundly and irrevocably altered. The Confederation has changed its nature. It has become something new in Europe; a policy of action has succeeded there to a policy of inertia and neutrality; whereas only the life of the municipalities used to count, it now has a national existence—an existence which is more laborious, more troubled, and more precarious, but also more dignified.